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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR-5557-D-06]**

**Delegations of Authority for the Office of Housing-Federal Housing Administration (FHA); Delegation of Authority for the Office of Healthcare Programs**

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice of Delegation of Authority.

**SUMMARY:** This document supersedes all previous delegations of authority and specifies the delegations and redelegations of authority for the Office of Healthcare Programs within the Office of Housing. The Office of Healthcare Programs is headed by the Deputy Assistant Secretary for Healthcare Programs and Associate Deputy Assistant Secretary for Healthcare Programs, who report directly to the Assistant Secretary for Housing – Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing – Deputy Federal Housing Commissioner.

**DATES:** Effective Date: June 5, 2012.

**FOR FURTHER INFORMATION CONTACT:** Ivy Jackson or John Whitehead, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6264, Washington, DC 20410-8000, telephone number 202-708-0599. (This is not a toll-free number.) Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

This notice supersedes all previous delegations including the delegations and redelegations published in the Federal Register on October 12, 2006 (71 FR 60179), and those contained in memoranda signed by the FHA Commissioner and titled “Redelegations for Sections 232 and 242 Programs,” dated November 6, 2008, February 1, 2010, and April 20, 2010.

The Office of Healthcare Programs (OHP) is centrally organized and administered out of HUD Headquarters and headed by a Deputy Assistant Secretary. It includes managers and staff members outstationed to field locations. OHP reviews and approves mortgage insurance proposals for hospitals (Section 242 of the National Housing Act) and residential care facilities (Section 232 of the National Housing Act) and handles asset management and property disposition matters related to HUD’s Section 232- and Section 242- insured portfolios. OHP also administers all matters under Title XI of the National Housing Act (mortgage insurance for group practice facilities), but this program is currently inactive. Prior to the creation of OHP, the Section 242 hospital program was administered by the Office of Insured Health Care Facilities (OIHCF), and the Section 232 residential care facilities program was administered by the Office of Multifamily Housing Programs (MHP). A 2008 realignment consolidated administration of HUD’s health-care facilities programs under the Office of Insured Health Care Facilities (OIHCF), with some responsibilities remaining with MHP. Following approval of a reorganization in May 2010, the Office of Healthcare Programs came into existence and OIHCF ceased to exist. HUD determined that the reorganization was necessary because underwriting and oversight issues unique to health-care facilities were best handled by a specialized office with particular expertise in the health-care area.

There are three major program offices within OHP, each of which is headed by a Director who reports to the Deputy Assistant Secretary for Healthcare Programs and the Associate Deputy Assistant Secretary for Healthcare Programs. A general description of each program office appears below:

A. Office of Hospital Facilities. This office develops and implements policies and guidelines for the loan origination, asset management, and post-insurance activities related to Section 242 mortgage insurance for hospitals.

B. Office of Residential Care Facilities. This office develops and implements policies and guidelines for the loan origination, construction, asset management, and post-insurance activities related to Section 232 mortgage insurance for residential-care facilities. These facilities include nursing facilities, assisted living facilities, and board and care facilities.

C. Office of Architecture and Engineering. This office provides architectural and engineering support for the hospital program and as-needed consultation for the residential care facilities program. It develops and implements policies and guidelines for plans and specifications, construction contracts, construction monitoring, construction draws, and closeout of the facility construction. This office also provides professional consultation for hospital facilities, including site visits for those projects that are in financial distress.

The Office of Healthcare Programs is charged with carrying out duties of the Assistant Secretary and General Deputy Assistant Secretary for Housing, as they relate to healthcare facility programs set forth in HUD's governing legislation. These programs enable HUD, in concert with participants from the private and public sectors, to provide

affordable capital financing for the construction, rehabilitation, refinancing, and purchase of health-care facilities. Under this delegation, the Assistant Secretary for Housing-Federal Housing Commissioner, General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner, and Associate General Deputy Assistant Secretary for Housing redelegate broad program authority to the Deputy Assistant Secretary for Healthcare Programs and the Associate Deputy Assistant Secretary for Healthcare Programs. Characterizing the authority that is being redelegated in broad or general terms will enable the Deputy Assistant Secretary for Healthcare Programs and the Associate Deputy Assistant Secretary for Healthcare Programs to perform all functions necessary to accomplish health-care facility program tasks and objectives. The basic health-care program functions and a brief description of each are as follows:

1. General Authority. This authority allows Office of Healthcare Programs officials to sign any and all documents necessary to carry out business within their program jurisdictions. In addition, this authority allows such officials, when considering a proposal, to waive, for good cause and with written justification any directives that are not mandated by statute or regulation.

2. Production. This function allows a manager with delegated authority to make all necessary determinations that relate to the FHA insurance application processing and underwriting process. The function begins with a pre-application or application for mortgage insurance and ends with the Department's endorsement of an insured mortgage and related documentation.

3. Construction. This function involves: the review and approval of plans and specifications and construction contracts, environmental review, the monitoring of

construction progress and quality, the review and approval of requests for drawdown of mortgage proceeds as construction progresses, and project closeout at the conclusion of construction.

4. Asset Management. Functions carried out under this category involve HUD's continuing relationship with a mortgagee and a health-care facility after the facility has been added to the HUD portfolio through FHA mortgage insurance. Ongoing decision-making relates to an insured facility's financial strength, occupancy, utilization, operations (including changes in ownership, operator, or management entity), and compliance with its regulatory agreement from the time of occupancy through termination of insurance, with the goal being to identify problems that could lead to mortgage default and payment of an insurance claim, and to take actions to help the facility avoid mortgage default.

5. Post-Insurance Functions. Functions under this category involve the ongoing monitoring and ultimate disposition of Secretary-held mortgage notes. The purpose of these functions is to optimize recovery of losses from claims. Ongoing decision-making relates to a facility's financial strength, occupancy, utilization, operations (including changes in ownership, operator, or management entity, and changes in debt service via a note modification) and compliance with its regulatory agreement. Post-insurance functions include: deciding to offer a Secretary-held mortgage note for sale, coordinating details of the sale process with the Office of Finance and Budget, deciding whether or not to accept an offer from a prospective purchaser and deciding whether to foreclose on a Secretary-held mortgage, coordinating details of the property sale with the Multifamily

Property Disposition Center, and deciding whether to accept an offer from a prospective purchaser.

## **SECTION A. AUTHORITY DELEGATED**

The Assistant Secretary, the General Deputy Assistant Secretary, and the Associate General Deputy Assistant Secretary for Housing hereby delegate the following authorities: (1) to the Deputy Assistant Secretary for Healthcare Programs and the Associate Deputy Assistant Secretary for Healthcare Programs; and (2) through the above Deputy Assistant Secretary for Healthcare Programs and the Associate Deputy Assistant Secretary for Healthcare Programs, to the managers listed, subject to the limitations in Section B below.

Authority is delegated, on a nationwide basis, to take all actions necessary to conduct all health-care facility mortgage insurance programs, including, but not limited to, the exercise of the following functions:

1. General authority.
2. All production functions.
3. All construction functions.
4. All asset management functions.
5. All post-insurance functions.

Authority is found in Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d), which states: “The Secretary may delegate any of his functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers,

and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.”

The authority delegated in Section A and redelegated in Section B below does not include authority to issue or waive regulations.

## **SECTION B. AUTHORITY TO REDELEGATE**

The Deputy Assistant Secretary for Healthcare Programs and the Associate Deputy Assistant Secretary for Healthcare Programs hereby redelegate the following authorities to the following managers:

### **A. Director, Office of Hospital Facilities**

Authority is redelegated, on a nationwide basis, to take all actions necessary to conduct the hospital mortgage insurance program, in relation to the following functions:

1. General authority;
2. All production functions;
3. All asset management functions; and
4. All post-insurance functions.

Prior authorization required. Exercise of the following authorities is subject to prior authorization by the Deputy Assistant Secretary or the Associate Deputy Assistant Secretary for Healthcare Programs:

1. Issue waivers of directives (except those that restate regulatory or statutory authority);
2. Issue mortgage insurance commitments;
3. Issue a notice of violation under the terms of a regulatory agreement;
4. Authorize the acceleration of the principal debt of a mortgage;

5. Authorize a partial payment of claim;
6. Authorize the sale of a mortgage note;
7. Modify a Secretary-held note;
8. Authorize the sale of a HUD-owned hospital;
9. Authorize a change of ownership or merger of a portfolio hospital;
10. Approve loan covenants other than the standard covenants;
11. Authorize a portfolio hospital to pledge accounts receivable as collateral for non-FHA indebtedness;
12. Require a change of a hospital's governing board or management; and
13. Communicate a significant new policy or a significant change to established program policy.

Further redelegations. The Director, Office of Hospital Facilities, may redelegate to, or withdraw from, any subordinate Division Director, any of the authority delegated to the Director by this notice. Division Directors may further redelegate to, or withdraw from, any designated officials within their Divisions, any of the authority delegated to them.

**B. Director, Office of Residential Care Facilities**

Authority is redelegated, on a nationwide basis, to take all actions necessary to conduct the residential-care facilities mortgage insurance program, in relation to the following functions:

1. General authority;
2. All production functions;
3. All construction functions;



4. All asset management functions; and
5. All post-insurance functions.

Prior authorization required. Exercise of the following authorities is subject to prior authorization by the Deputy Assistant Secretary or the Associate Deputy Assistant Secretary for Healthcare Programs:

1. Authorize the acceleration of the principal debt of a mortgage;
2. Authorize a partial payment of claim;
3. Authorize the sale of a mortgage note;
4. Modify a Secretary-held note;
5. Authorize the sale of a HUD-owned residential care facility;
6. Approve a portfolio consisting of 10 or more facilities;
7. Approve change of ownership or operator for a portfolio of 10 or more facilities;
8. Approve a mortgage insurance commitment in excess of \$50 million; and
9. Communicate a significant new policy or a significant change to established program policy.

Further redelegations. The Director, Office of Residential Care Facilities, may redelegate to, or withdraw from, any subordinate Division Director any of the authority delegated to the Director under this notice. Division Directors may further redelegate to, or withdraw from, any designated officials within their Divisions, any of the authority delegated to them.

C. Director and Deputy Director, Office of Architecture and Engineering

Authority is redelegated to take all actions necessary to conduct the construction functions for the hospital mortgage insurance program, and, when directed by the Deputy Assistant Secretary or the Associate Deputy Assistant Secretary for Healthcare Programs, on a case-by-case basis, for the residential care facility mortgage insurance program.

The Director, Office of Architecture and Engineering, may redelegate to, or withdraw from, any designated official within that Office, any of the authority delegated to the Director.

#### **SECTION C. AUTHORITY EXCEPTED**

The authority delegated in Section A and redelegated in Section B, above, does not include authority to issue or waive regulations.

#### **SECTION D. AUTHORITY SUPERSEDED**

These redelegations supersede all prior delegations and redelegations with respect to health-care facilities, including, without limitation, those published in the Federal Register on October 12, 2006 (71 FR 60179) and memoranda signed by the FHA Commissioner and titled “Redelegations for Sections 232 and 242 Programs,” dated November 6, 2008, February 1, 2010, and April 20, 2010.

The Assistant Secretary for Housing – Federal Housing Commissioner, or the General Deputy Assistant Secretary for Housing – Federal Housing Commissioner, or the Associate General Deputy Assistant Secretary for Housing may revoke the authority authorized herein, in whole or part, at any time. Notice of any revocation will be published in the Federal Register.

Dated: June 5, 2012\_\_\_\_\_

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Carol J. Galante,  
Acting Assistant Secretary for Housing-  
Federal Housing Commissioner

**[FR-5557-D-06]**

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